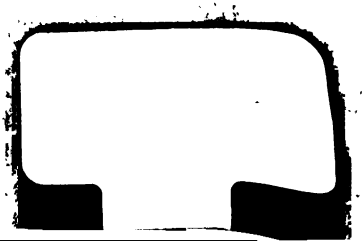

RELIGIOUS LIBERTY

IN

MARYLAND AND RHODE ISLAND

By

REV. LUCIAN JOHNSON

Honorary Fellow of the
Catholic University of America

International Catholic Truth Society
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Religious Liberty in Maryland and Rhode Island.

THE volume and intensity of the discussion about Maryland and Rhode Island in their relation to religious liberty are somewhat out of proportion to their importance. Neither Lord Baltimore nor Roger Williams was the first in the history of Christianity to either enunciate the theory of religious liberty from civil interference or to put it into practice in a government. As far back as the fourth century, Constantine's "Edict of Milan" and "Proclamation to the Peoples of the East" enunciated as complete a theory of religious liberty as Williams' "Bloody Tenent of Persecution" in A. D. 1644 (Cobb, pp. 25-27). At all times, and even by the persecutors themselves, toleration of some form or other was taught. With the beginning of the awful wars and mutual persecutions of the Reformation, the minds of men began to be more and more attracted to leniency. The tide was swelling fast in favor of religious liberty. The half-witted Anabaptists in 1524 taught absolute separation of Church and State. Luther himself and William of Orange partially advocated it in principle, though denying it in practice. Similarly also Sir Thomas More. By the opening of the seventeenth century, the movement has still further spread. John Locke, Sir Henry Vane (younger), Cromwell joined it in theory, though as we shall see, retaining the traditional hatred of Papists. Lord Baltimore and Roger Williams, therefore, simply were part and parcel of the movement. They originated nothing absolutely new.

Their influence upon succeeding generations has been equally exaggerated. That they did contribute powerfully towards the complete adoption of religious liberty in the United States is certainly true. It is also true that both are singular in having been the first to found *modern* governments with religious liberty as their foundation, as such being the *historical* founders of the American principle of separation of Church and State. But no one well acquainted with the general history of religious liberty in the United States can avoid being impressed by the fact that the same results would have come anyhow even if Baltimore and Williams had never lived. Their own work was undone long before the adoption of the Constitution, in 1789—completely in Maryland, partially in Rhode Island; whereas in other colonies which started out with intolerance, toleration had so far progressed that these colonies were fully on a footing with them and contributed equally to the adoption of the full liberty guaranteed by the Constitution. Otherwise it could not have been. The very diversity of State constitutions, the lassitude and religious indifference characteristic of the eighteenth century, chiefly in America, where petty persecution had run its inglorious and unsuccessful course, the widespread opposition of all dissenters to an established Church of England—all would have rendered a union of Church and State in the general government a sheer impossibility. All this leaves the irresistible conviction that Williams and Lord Baltimore were but pioneers in a great mental and political revolution which, be it said to their credit, they powerfully aided, but which they neither created nor could have retarded had they so desired.

Lastly, it is somewhat idle to attempt a comparison of priority between Williams and Baltimore. Their political foundations were practically simultaneous—only a difference of two years. Both intended toleration, but put it into practice in different manner, ac-

cording to their individual differences of character and the difference of political circumstances in which each found himself.

However, there is unfortunately considerable controversy, bitter at times, over their respective merits. This controversy is due chiefly to a confusion by the popular mind of the points in discussion, a confusion caused very largely by the inexact phrasing of historians. This being the case, it is not idle to attempt a clear statement of the points at issue. The present writer does not boast freedom from bias; hence his conclusions are to be accepted with this in mind. However, it is equally fair to state that in the preparation of this paper he has consulted only non-Catholic authorities with one exception—the able essay in the *American Catholic Quarterly Review.* The other Catholic work (Hergeroether) is added for the reader's convenience, in case he desires to study the Catholic conservative opinion on the subject of liberty of conscience and relations between Church and State. Besides the bibliography, there is also added a short summary of dates, which will be found useful for quick reference in the reading of this paper.

I.

LORD BALTIMORE AND MARYLAND.

The investigator into this matter is struck immediately by the contradiction in the phrasing of historians, noted above. Mr. William T. Brantley, in his sketch of Maryland, calls it the "first government which proclaimed and practised religious toleration" (p. 517). Cobb, in various places, seems to both deny and assert it: thus (p. 13) apparently giving the priority to Williams, yet on pages 244, 366, denying it by crediting Maryland with the establishment of "full liberty," "complete freedom." These are but instances of the curious contradictions meeting the reader at every turn. No wonder he is confused. The only remedy is a careful study of each point by itself, leaving aside the misleading general statements of historians. Now, the whole question of priority between Maryland and Rhode Island revolves around the following points: (*a*) Did religious liberty exist in Maryland before the founding of Rhode Island? The advocates of the latter grant that religious liberty was *practised* in Maryland, but that it was not the law of the land as laid down in its original charter; whereas Rhode Island was the first to make religious liberty a *law*, a fundamental principle of its constitution. That moreover Maryland never granted *full* liberty but only toleration to all Christians, whereas Rhode Island made no exceptions. Hence, they claim a priority of *law* and of *completeness*. (*b*) Secondly, did Rhode Island ever practise or legislate intolerance? Its advocates claim that she did not; hence, they claim an additional and third priority of *consistency*. The reader can judge for himself how far these claims hold. This paper maintains that full religious liberty was the practice and law of Maryland

before the founding of Rhode Island, that Rhode Island certainly did on several occasions act and legislate intolerantly, that it is a debatable question whether or not absolute religious liberty ever had been intended by its founders.

LIBERALITY OF LORD BALTIMORE'S CHARACTER.

Our reasons for maintaining the priority of Maryland are these—namely, that Lord Baltimore's words and actions prove unmistakably the absence of the slightest intolerance in his character and his intention of founding a colony where all without exception should have religious liberty, that the original charter carried with it religious liberty though Baltimore was in such circumstances that an express declaration to that effect was impossible, and, finally, that there is no instance of any intolerance in Maryland up to the founding of Rhode Island, nor afterwards—in fact, so long as Maryland remained in Catholic hands.

Baltimore's mind as to religious liberty in Maryland had long ago been forecast in his abortive colony in Newfoundland. Even before his conversion to Catholicity (1624), he had been interested in colonization schemes, so that he had obtained a patent for the above settlement as early as April, 1623. His later Maryland Charter was the logical and historical outcome of this Avalon patent, along the lines of which it was modelled. Now, from the very first, Baltimore showed his liberality. In 1627, he visited the Avalon Colony for the first time. Though he was then a Catholic, and now interested in establishing a home in the new world for his persecuted brethren, he not only did not persecute the Protestants, nor merely tolerated them, but actually provided for them a place of worship and a clergyman, an act of liberality which was repaid

by the same clergyman preferring charges against him in England, that he "allowed mass to be said in Avalon" (A. C. Q. R., 299). Thus we see Lord Baltimore, in his first attempt at a colony, not only tolerating but giving full, complete religious liberty; nay, even favor, to the adherents of an opposing religion, and that even when the very recipients of his liberality were proving ungrateful. As above said, this has a direct bearing upon the Maryland question, because it was due to the failure of the Avalon Colony that Maryland was started, and the Maryland Charter was closely modelled by the Avalon Patent, so that, logically, Maryland and Avalon were part and parcel of the same scheme, and Baltimore's claim as the pioneer of religious liberty can justly extend as far back as 1627, and not merely to 1632. (Cf. Winsor, pp. 519-520.)

CHARTER OF MARYLAND, 1632: ITS MEANING.

We now come to the much-discussed Maryland Charter of June 20, 1632. Did it confer religious liberty? On this point the most opposing views have been held: some saying that it allowed toleration, others that it enforced toleration; still a few that it denied toleration and established the Church of England. All these views are extreme and not now accepted by the generality and the best of historians. The most commonly accepted and reasonable explanation is that its wording was purposely made so vague as to allow the Proprietary to do pretty much as he pleased. (Winsor, 523-524; Brown, p. 69.) This method of drawing up charters seems to have been rather the vogue in those days. Thus, for instance, the Charter of Massachusetts said nothing about ecclesiastical affairs, nor about religious liberty, for a twofold reason: "the crown would not have granted it, and it was not what the grantees

wanted." So, also, there was nothing said about liberty of conscience in the Pennsylvania Charter of 1681, though William Penn expressly intended to found his colony on the corner-stone of freedom. In the so-called New Jersey "Concessions" there is no mention of freedom of civil rights, yet it was understood that no discrimination as to civil rights because of religion was intended. Even the vaunted charter obtained by Williams in 1644 was "silent on matters of conscience and worship, probably because Williams did not wish to raise the question with the English authorities, and also held that religious liberty was an indefeasible right which no charter could grant," though, when more propitious times were ushered in, he so far altered his views as to the nature of that "indefeasible right" as to solicit and obtain from the semi-Catholic king, Charles II., a new charter (1663), which conferred religious liberty in express terms (Cobb, 149-150, 176, 400, 441, 431, 435). The amount of religious liberty to be enjoyed by a colony cannot, therefore, be always judged by its words. We must seek otherwise for the intention of the men obtaining and drawing up the charter. So must we judge the charter of Maryland; and so it is judged by the latest and best historians.

Mr. Cobb, who is an ardent admirer of Roger Williams, thus expresses the reasons for the purposed ambiguity of the charter: "It was impossible for him (Baltimore) to obtain a charter with that desire (of providing a home for persecuted Catholics) avowed in the instrument. All England, New England and Virginia would have been roused to a storm of indignation. At the same time it was impossible to obtain a charter expressive of *the other, and as great, desire of his heart—to confer on Maryland the boon of complete religious liberty.* The English prelate and presbyter, the Massachusetts Puritan and Virginia Churchman would have been in arms at once. The times were not yet ripe for the 'lively experiment' which the second

Charles allowed Williams to try in Rhode Island, that a 'flourishing civil state may stand and best be maintained, with a full liberty of religious concernments.' All the conditions demanded that the charter should contain some ecclesiastical direction, while Baltimore desired that such direction should be in consistency with *both of his dominant purposes,* to protect his persecuted brethren and to give freedom to all. It is possible to say, as some have said, that the offer of complete freedom with which the Baltimores began their colony, was but a guise, under which they sought relief for their co-religionists, in no less comprehensive way to be secured. But it is neither necessary nor just so to judge. Every detail of their directions touching on the subject evinces the motives of broad minds, not seeking merely a selfish freedom, but grasping the fundamental principles of human rights. . . . . They stand level with Roger Williams in the history of human freedom." (Cobb, 365-367.)

Such a testimony needs no explanation. It gives the whole question in a nutshell. Yet, for the doubtful, we will add some testimony of a more contemporary character. It seems that the charter, ambiguous as it was, left little doubt as to its purport, so evident did Baltimore make his intentions. Therefore, some of his fellow Catholics, bigoted like the Puritans who persecuted them, looked askance at his scheme as entirely too tolerant. In the dilemma, Baltimore laid the question before Father Blount, the provincial of the English Jesuits, who had aided in the preparation of the charter. Blount answered that "Conversion in matters of religion, if it be forced, should give little satisfaction to a wise state. . . . for those, who for worldly respects will break their faith with God, will do it on a fit occasion much sooner with men." (Cobb, 368.) Furthermore, Blount defended the charter, as a "license for them to depart from their kingdom and go into Maryland or any country where they may have *free*

liberty of their religion." (A. C. Q. R., 302.) So then, it is clear that Baltimore's contemporaries looked upon his charter as a grant of religious liberty, and one of the very framers of it defended it as such, expressly stating that it was *intended* to be such.

The reader will find all the needful testimonials of Protestant writers regarding Baltimore's steady and expressed intention of founding a free religious state in the above-quoted article in the A. C. Q. R.—testimonies from Bradley T. Johnson, Scharf, Chalmers, Lodge, Bancroft, Story, etc. Suffice, in addition, to note here, that Baltimore, in a letter of November, 1633, distinctly warns his brother, Leonard Calvert, against any oppression of the Protestants on the vessels then about to set sail for the colony, urging him to suffer "no scandal or offence" to them, to even respect their feelings so far as to hold Catholic services as private as possible, to instruct all Roman Catholics to be silent on religious matters, to treat all Protestants with mildness and favor (Calvert Papers, No. 1, p. 132). Note, in passing, that many of these Protestants had been attracted to the expedition precisely by Baltimore's promises of religious freedom to all (Cobb, 368; Winsor, 524).

Baltimore's intention then to found a perfectly free state is plain. He certainly would not have stultified all his previous record by drawing up or accepting a charter which did not allow him to carry out his views. But the only way to accomplish this was to draw up a charter which was ambiguous enough to blind the English Protestant authorities, and yet leave his own hands free. We may be sure that he would, if he could, have laid down in the charter, in express terms, his principles of religious liberty. But that would have

been sheer idiocy. If the charter,* even in this emasculated form, excited hostile criticism from the bigots, judge what a storm it would have raised had it expressed Baltimore's real intent. It seems not only unjust, but decidedly little, to catch at the mere phrasing of the charter, and conclude that by it only Christians, nay, only Anglicans, were officially recognized. This is textual microscopic criticism run mad. The general broad conclusion is evident that Baltimore was an advocate of full religious liberty, that he intended both at Avalon, in Newfoundland and in Maryland to found a state based upon this principle, and that his charter, whilst not expressly admitting the principle, was purposely worded in such an ambiguous manner as to leave him free to carry out that principle; that the charter is to be accepted only in such light proved both from the general fact that other charters, such as those of Massachusetts, New Jersey, Pennsylvania and Rhode Island, can only be rightly estimated, not by their wording, but by the otherwise known intent of their author, and from the more special reasons above alleged, to prove that such was, *de facto,* the case with the Maryland Charter.

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*The references to religion in the charter are two: First, that the Proprietary should have the advowsons of all churches which might happen to be built together with the liberty of erecting churches and causing the same to be consecrated according to the ecclesiastical laws of England; secondly, no law was allowed to be made prejudicial to God's holy and true Christian religion (Winsor, 523). The Avalon patent has identically the same provisions in identically the same phrases. As is evident, they are vague. It left the Proprietor free to do as he pleased, provided he did nothing *adverse* to Christianity. Under this law a Pagan or Jew could live in full liberty if the Proprietor wished, and Baltimore did so wish.

RELIGIOUS LIBERTY THE PRACTICE IN MARYLAND UNDER CATHOLIC RULE.

It remains now to be seen if practice followed the theory. On all sides this is unanimously conceded. There is not the slightest evidence of any interference with the religious faith of any one under Catholic rule. (Browne, 69-70; Cobb, 370-2, 384; Winsor, 530-1-5.) There were, however, two instances where punishment was inflicted, but on Catholics, for bigotry toward some Protestants, in 1638 and 1642. True, in 1637, the Assembly passed the following law—namely, that "Holy Church within this Province shall have and enjoy all her Rights, Liberties and Franchises wholly and without Blemish." But, as Cobb observes (p. 371), "This was in harmony with the mandate of the charter to Baltimore, that nothing should be done contrary to God's Holy Religion," which left each citizen to decide for himself what he considered "Holy Church," and asserted the complete independence of the Church from secular control. Ambiguous, in a word, just as the charter was, and purposely so for the same reasons.

The casual reader, however, will see an objection in the reference to God and Church in both the charter and in this Act of the Assembly.* He will ask if, under such a charter and law, there was freedom of conscience for non-Christians, pagans, etc. We answer, yes, most emphatically; and this brings us to the famous Toleration Act of 1649, which, though passed later than the Rhode Island settlement, nevertheless throws considerable light back upon Maryland's previous history.

*The same *verbal* exclusion of non-Christians occurs in the oath ordained by Baltimore in 1636, to be taken by all officers of the Colony; *i. e.*, they swore to protect all peoples "Professing Christianity." (Cobb, 372.)

TOLERATION ACT OF 1649.

In the years 1648-9, Baltimore modified the religious character of the governing body hitherto Catholic, by removing the Catholic governor, and appointing a Protestant (Stone) in his place, and three Protestants in the Council, leaving but only three Catholics in the Council. Under this government, the Assembly, in 1649, passed the famous Toleration Act, granting full protection and liberty of conscience to all "professing to believe in Jesus Christ." (For full text of this long document, see A. C. Q. R., pp. 292-295.) This act has been the subject of considerable controversy. Some non-Catholic historians have maintained that it was passed by a Protestant majority. This question, however, need not detain us. The most recent and best authorities all agree that the majority was Catholic. (Winsor, 534. For a full discussion of the question, see Davis' "Day Star.") But the objection of the Rhode Island advocates is more serious. They say that, whereas Rhode Island, in 1636, decreed liberty of conscience to all men, Maryland accorded the same in its charter only to Christians; that, moreover, Rhode Island's famous "Compact" was issued in 1636, whereas this, the first law of toleration passed in Maryland, dates only from 1649—thus giving Rhode Island priority, both of time (13 years) and of completeness.

REASONS OF ITS ENACTMENT.

First, then, as to priority of time: It is true that this law of 1649 is the first law *expressly* guaranteeing any form of toleration. But what of it? We have seen that Lord Baltimore intended toleration from the very beginning; that adverse political circumstances prevented him having it expressly laid down in the charter; that he deliberately framed a charter which would be

so ambiguous as to allow him to practice toleration; finally, that absolute complete liberty of conscience was practiced in the Colony from the very beginning. From all which, it follows that the law of 1649 did not originate anything new, but merely expressed formally what had all along been the settled policy of the colony from the start.

But, it may be asked, why then did the Assembly go to the trouble of legislating what was already so generally recognized as common law? The answer is plain. England at that period had fallen into the hands of the fanatical Puritans, led by Oliver Cromwell, and Charles II. was executed. Baltimore could well tremble for the fate of his little colony. His enemies had time and again attacked Maryland as a "nest of popery;" now they could do so with much more hope of ruining him. Therefore, in order to placate the Puritan element, and to protect his fellow Catholics at the same time, he did the following: The first end was obtained by reorganizing (1648) the governing body so as to allow for a Protestant majority (Governor and three Councilmen Protestants vs. three Councilmen Catholics). The second end he obtained by requiring the new governor and councilmen to take an oath promising toleration, and by drafting the famous Toleration Act, which a Catholic majority in the Assembly passed in 1649. The law, then, was merely an act of self-protection. It originated in a fear of Puritan intolerance, not in any desire to legislate something new. It merely recognized what had always been the custom of the land. Hence, a comparison of its late date with that of the Rhode Island "Compact" is not to the point (Winsor, 533-4; Cobb, 375-6).

IT GRANTED RELIGIOUS FREEDOM TO ALL.

Secondly: the law, it is true, *verbally* accorded toleration only to those "professing to believe in Christ." Is it just to conclude from this that non-Christians were excluded from its provisions? Here authorities disagree. Mr. Cobb, for instance (p. 377) seems to think they were. Mr. Brantly (Winsor, p. 535) is doubtful. The writer's personal opinion is that the Act did not *intend* any exclusion of non-Christians. We have seen above how the meaning of the Charter, not only of Maryland, but as well of those of other Colonies, is to be judged, not by its mere words, but by the *intention* of the framers signified in their letters and prior conduct, and by the interpretation put upon it by contemporaries; that, judged by such a rule, the Charter of 1632 was intended to grant complete religious liberty, even though its words do not convey such a meaning; that, *de facto,* complete religious liberty was the unwritten law of the land. This granted, then, the law of 1649 cannot be considered as excluding non-Christians from protection, so long as we consider it an expression of pre-existing law and custom. The argument holds for the Act of 1649, as well as for the Charter of 1632, or the intervening custom. Mr. Brantly, above cited, unconsciously admits as much:

"It may have been that they (the Assembly) regarded any broader toleration as prohibited by the provision of the Charter respecting the Christian religion, or as likely to excite the animadversion of the Puritans in England. Parliament had recently passed a law for the preventing . . . of a number of enumerated heresies . . . punishable with death."

Such a supposition becomes all the more reasonable if we admit, for argument's sake, that the exclusion of non-Christians was really intended. For, if Baltimore and the Catholic majority really did intend

not to tolerate Jews or pagans, they surely must have been wise enough to see that by this very act they opened the door for the persecution of themselves by the ever-increasing Puritan, bigoted population. Again, Baltimore surely could not have had any more animosity against non-Christians than against Protestants. He probably had less, considering the murderous persecution then being inflicted upon Catholics by every Protestant government in Europe—not to mention America. Then, too, his main object was self-protection, hence that object was accomplished by a law protecting all "professing to believe in Christ." Doubtless, he never thought of Jews or other such non-Christians, of whom probably none were in the colony. At all events, his whole character was totally inconsistent with any intentions to persecute anyone, so that it is eminently just to suppose that he would have had passed an explicit law of absolute religious liberty had his hands been free. Rhode Island admirers exculpate Williams from any complicity in the debated law of Rhode Island in 1663-4, disfranchising Catholics on the ground that complicity in such an act of intolerance is inconsistent with Williams' previous record for tolerance. Can we not justly use the same argument in exculpating Baltimore from any intention of intolerance in drafting the Maryland Act of 1649?

SUMMARY.

To sum up: It is maintained by this paper that since Rhode Island's foundation dates only from 1636, Maryland's priority in time over Rhode Island in the matter of religious liberty is thirteen years, according to the Avalon Patent (1623), which we consider as logically and historically as the beginning of Maryland; four years, according to the Charter of Maryland (1632); two years according to the unwritten custom

of the land, after its actual colonizing in 1634. Further, that the law of 1649 cannot be taken as the beginning of religious liberty in Maryland, nor that there is good reason to suppose that this liberty was restricted to Christians. All this takes for granted that absolute religious liberty was the law and custom of Rhode Island from 1636—an admission, however, which will receive some qualification below.

II.

Roger Williams and Rhode Island.

On this subject there is perhaps more confusion than on the former, and the reason is the same—namely, the rash general assertions of historians. For the sake of clearness, then, we will take up each point separately.

Roger Williams himself first claims attention. Even with him, it is necessary to adopt the method of analysis, as general statements concerning him are extremely misleading, owing to the strange inconsistency of his character.

WILLIAMS' TEACHING ON THE SUBJECT OF RELIGIOUS LIBERTY.

First, then, what did Williams *teach* on the subject of religious liberty? Candid criticism must admit that *so far as his words go,* he unmistakably preached absolute full freedom of conscience from civil interference, although here and there we notice a slight shading of opposite color. In his "Bloody Tenent Made More Bloody" (written as a defense of his "Bloody Tenent of Persecution" published in 1644), he writes: "As it would be confusion for the Church to censure such matters and acts of such persons as belong not to the Church; so it is confusion for the State to punish spiritual offences, for they are not within the sphere of civil jurisdiction. The Civil State and magistrate are merely and essentially civil, and, therefore, cannot reach (without transgressing the bounds of civility) to judge in matters spiritual, which are of another sphere and nature than civility is"

(Cobb, 426). In a letter to Endicott (Letters, p. 225), he maintains that "there is no other prudent Christian way of preserving peace in the world but by permission of differing consciences." In a letter to John Whipple (Letters, p. 328), under date of July 8, 1669: "I commend that man whether Jew, Turk or Papist . . . that steers no otherwise than his conscience dares." Again, he writes, "I would not vote for a man holding certain principles . . . yet a law making men ineligible to office on account of certain opinions would be an invasion of their civil rights" (Bloody Tenent, ap. Knowles, p. 369). In his "Hireling Ministry None of Christ's," published in 1652: "All these consciences (yea—the very conscience of Papists, Jews. . . .) ought freely and impartially to be permitted their several respective worships" (Knowles, p. 323-4). Also in his "Bloody Tenents" (ap. Elton, p. 72): "It is the will of God, that since the coming of His Son, the Lord Jesus, a permission of the most paganish, Jewish, Turkish or anti-Christian consciences and worships be granted to all men in all nations and countries; and they are only to be fought against with that sword. . . . the sword of God's spirit—the word of God." Finally, in 1655, he writes his famous letter in defense of his principles in which he compares the government to a ship on board of which were people of different religious beliefs, and maintains that so long as all behaved themselves properly, full toleration must be accorded Papists, Jews, Turks, etc. (Letters, p. 278; Elton, 120-1; Arnold, 254.)

These words need no comment so far as complete religious *toleration* was concerned. But do they necessarily imply complete separation of Church and State? The reader can judge for himself after the following comments. He will notice that in these, and all through Williams' works, there runs a steady, consistent *negative* tone. True, he considers it unjust to deprive a man of his vote because of his opinions. But that posi-

tive declaration stands in marked contrast to the habitual negative expression of liberty. It is always a question of the government *tolerating, permitting, allowing—not persecuting*—a man for his opinions. Now, such language does not necessarily imply separation of Church and State. The French Republic today is officially Catholic, yet it tolerates, permits, allows, even subsidizes financially Protestantism. And of those who consider this unfair criticism, I call their attention to a peculiar statement of Williams in that very works of his ("Bloody Tenent of Persecution"), which expresses his views most clearly. Speaking of the attitude to be observed by magistrates relative to religion, he says that they should give "*approbation* and *countenance*" to the true religion, *i. e.,* which they considered true, but "*permission* and *protection*" to a religion they considered false (Knowles, 367). Note the difference in the wording. In other words, a civil magistrate, if a Baptist, should *approve* and *countenance* the Baptist church, but merely *permit* and *protect* the Catholic. At the least, such words are vague.

In his "Hireling Ministry," he likewise says that it is the "duty of all that are in authority . . . to countenance and encourage and *supply* all such true volunteers as give and devote themselves to the service and ministry of Jesus in any kind" (Knowles, 381). Supply! *i. e.*, support financially? How support? With public moneys? Therefore, support a Christian minister with money from taxes paid, for instance, by a Jew or Turk?

Two more observations as to Williams' theory. He has been lauded to the skies as the apostle of absolute religious freedom of opinion. The praise should be tempered by the reflection that Williams expressly states in his "Bloody Tenent" that his views on religious liberty did not extend to the internal discipline of the Church, so that a church could use spiritual penalties against refractory members. This, of course,

is only by the way. It affects our main question only slightly, but it is well to know such things, if only to keep Williams in his proper perspective.

Taking Williams' theories as they stand, there is after all, fundamentally little difference between them and the generally accepted Catholic view. Catholic theologians hold with Williams, that the Church and State are both independent in their spheres of action, that no one can be forced to accept a religion in which he honestly does not believe, that the state has the right to punish a man whensoever his religious views become a menace to society. The Church maintains that the *ideal* condition is a happy union of mutually assisting Church and State. Even in this, Williams might agree. Because, would even his most ardent admirers admit that Williams would deny the abstract truth of such a principle, *provided* the principle *could* be carried out without intolerance or unequal favor to any? A real Utopia, for instance? Well! that is all that is meant by Catholic theologians. They all teach toleration, absolute freedom, in fact, whensoever the Utopian ideal is impossible of realization. In this connection, the remark of the Puritan, Edwards, is extremely curious. He called toleration "a most transcendental Catholic and fundamental evil" (Arnold, 45). These words may or may not mean "Papist."

Lastly, if Williams admits that the state can punish whensoever a religion becomes inimical to society, he stultifies his whole theory, because every persecution in the world's history has been excused by its authors, chiefly on this ground. The Church was an enemy to the Roman state, she was the "Spanish Cloud" of danger to Elizabethan England, she is today the "Foreign" enemy of the public schools and American institutions—and so on. We shall see that, *de facto,* Williams did so excuse his hostility to the Quakers.

WILLIAMS' ATTITUDE TOWARDS CATHOLICS AND QUAKERS.

So much for theories. From such a writer we naturally expect the utmost tolerance in speech when referring to others of a different faith, and Williams' admirers are fond of describing him as such. Even as fair a writer as Cobb unwittingly joins in the hymn of praise, saying that Williams "seldom fell into the mistake so common to moral reformers of reckoning personal abuse as a proper weapon in the arena of debate" (Cobb, 428). The opposite is true, at least so far as Williams' language towards Catholics is concerned. When they are in mind, this gentle apostle, this broad-minded herald of religious liberty fairly foams at the mouth. His hatred for "popery" was intense (Knowles, 23). His fear of it was equally great—childishly so. "It is the design of hell and Rome to cut the throats of all the Protestants in the world," so he wrote in 1682, the year before his death, to Governor Bradstreet (Knowles, 353). In a letter to John Winthrop, under date of February 6, 1660, he writes, "The late renowned Oliver" (*i. e.,* Cromwell) "confessed to me in close discourse about the Protestant affairs, that he feared great persecutions to the Protestants from the Romanists before the downfall of the Papacy. The histories of our fathers before us tell us what huge bowls of blood of the saints that great whore has been drunk with" (Letters, p. 306-7; Knowles, p. 310). In same letter he refers to "The common enemy, the Romish wolf." In another letter, of September 8th, 1660: "And yet in the end I fear (as long I have feared, and long since told Oliver, to which he was much inclined) the bloody whore is not yet drunk enough with the blood of the saints and witnesses of Jesus. One cordial is that that whore will shortly appear so extremely loathsome in her drunkenness, bestialities, etc., that her bewitched paramours will tear her flesh and burn her with fire unquench-

able" (Letters, p. 310). In a letter to Major Mason, under date of June 22, 1670, he says, speaking of the uselessness of religious strife: "This is humanity—this is Christianity. The rest is but formality—a picture, courteous idolatry and Jewish and Popish blasphemy against the Christian religion" (Elton, 163). In this same letter he speaks of the "French and Romish Jesuits, the firebrands of the world for their God belly sake, are kindling at our back, in this country, especially with the Mohawk and Mohegans, against us, of which I know and have daily information" (Elton, 167).

Such coarse billingsgate needs no comment. The reader's attention, however, is called especially to Williams' warning to Oliver Cromwell concerning the insatiable thirst of the "whore" for the "blood of the saints." We will have more below to say about the peculiar friends of Williams, but these words deserve special comment. For if Williams thus spoke with Cromwell, he is justly chargeable with some of the anti-Catholic legislation of the period in England. Cromwell, superior as he was to most rulers of his time, nevertheless was as bloody a persecutor of Papists as ever lived. Williams, of course, knew this, and yet, so far from tempering his fiery zeal with gentle theories of religious liberty, we find him doing the very opposite, inflaming Cromwell's hatred and fear of Catholicity by alarming suppositions and reports. Moreover, his reference to the coming punishment of the "whore" reads like an appeal, a hope that she would be destroyed by force, drowned in her own blood, consumed in "unquenchable fire." Was there ever a more incendiary appeal to religious bigotry and fanatic intolerance? No wonder Cromwell, with such advice from such a man, could feel easy in conscience when he persecuted the helpless Catholics in England and slew them in cold blood at Drogheda and Wexford, in Ireland. Williams' admirers will, of course,

condone his language as being the customary religious style of the day. Partly true. But the facts remain as above. And it is well, by way of comparison, to observe that had Williams used such language at that time in Maryland, he would have been fined, according to the law (1649) forbidding "the reproaching any with opprobrious epithets of religious distinction"—10 shillings fine.

So much for "Papists." Towards the Quakers, Williams was often severe in his language, though he held aloof from the persecution then directed against them. However, at times they sorely tried his toleration theories. He says of them: "They are intolerably proud and contemptuous. I have, therefore, publicly declared myself that a due and moderate restraint of their incivilities, though pretending conscience, is so far from persecution, properly so called, that it is a duty and command of God" (Cobb, 216). Now it may be perfectly true that the more fanatic Quakers were pretty difficult people to stand. But it is nevertheless curious to watch the efforts which Williams makes to wiggle out of intolerance by the use of such qualifying clauses as "pretending conscience," "properly so-called." The men who expelled Williams from Salem went precisely along such lines of thought. *He* said he held certain principles of conscience; *they* told him he was a danger to the State; *he* "pretended conscience." This becomes all the more amusing when we read (Knowles, p. 384) that some of the Quaker "incivilities" referred to consisted in their use of "Thee" and "Thou." Evidently Williams thought that he, himself, had the right of determining what was and was not "conscience."

WILLIAMS, THE FRIEND OF CROMWELL, MILTON AND VANE.

Before leaving Williams, a few words as to his peculiar friendship with Oliver Cromwell and other celebrities of his day. His own letters testify to a very intimate friendship with the Protector (Knowles, 304-313: Letters, pp. 306-8, 310). Now, here is the peculiar part of the fact: According to his biographers, Elton (p. 124) and Knowles (p. 304), the basis of the friendship was a community of opinion on the subject of religious liberty. If this be true, then Williams can no longer lay any claim to being a champion or pioneer of religious liberty in all its fullness. Cromwell, probably, was rather more liberal than most Englishmen of his day. He refused, for instance, his authorization to the repeal, in 1654, of the famous Maryland Toleration Act (Cobb, 379), though, with strange inconsistency, he showed himself indifferent to Williams' application for a free charter of religious liberty about 1658 (Ib., 435). It is also said that he relaxed the persecution against Catholics. All this may be true; but he did not release Catholics from their civil disabilities, expressly excluded them from the benefits of his much-heralded toleration, and especially in Ireland carried on the semi-religious war with a bloodthirstiness which only religious hatred could have inspired. Yet this is the man with whom Williams was in unity of sentiment regarding religious liberty.

Take another of Williams' friends, the younger Sir Henry Vane. Elton (p. 169) speaks of the "warm friendship and the coincidence of opinion on religious freedom existing between Roger Williams and Sir Henry Vane." Here again the same remark. Vane was, in his way, tolerant beyond his time. His "Healing Question," published in 1656, advocates a complete separation of Church and State (British Encyclopedia; Elton, 169-171; Cobb, 60-61). But, like all others,

his religious liberty meant nothing to Catholics. As a foremost member of the Long Parliament, he sympathized with, and aided in, all the acts of intolerance against Papists indulged in by the Puritan oligarchy. As governor of Massachusetts in 1636, he *ipso facto* became party to all the official intolerance of that colony. In passing, the reader is reminded that the *tolerant* Cromwell imprisoned Vane for writing that "Healing Question" (York-Powell, 629).

Milton, also, would seem to have been a friend of Williams; and he, too, has been heralded as an advocate of religious liberty; but, as usual, his toleration must have been of a very limited kind, judging by his excessive admiration for the Protector. We do not read that he ever pleaded with the latter for leniency to his persecuted Catholic fellow countrymen, though he could urge him on to protect the persecuted Vaudois of Savoy in language which is not very flattering to Rome, in which city the poet had formerly met with nothing but honor and courtesy.

> "Their martyred blood and ashes
> O'er all th' Italian fields, where still doth sway
> The triple tyrant." (Knowles, 304.)

These, then, were some specimens of Williams' friends, to whom he was drawn by a community of opinion on the subject of religious liberty. To be frank, we think a little better of Williams. He was probably more tolerant than any of them; certainly more than Oliver Cromwell; but it is worthy of notice that Williams' own biographers do say that he entertained the same views as his friends. If they are wrong, they can lay the blame upon their own reckless use of terms. We will see below how frequently "liberty of conscience" and "toleration" are predicated of persons and documents without said liberty or tolerance being applied to Catholics, a fact which readers in this matter should bear constantly in mind lest they be taken in by catch phrases.

INCIDENTS IN RHODE ISLAND HISTORY.

There now remain two points for discussion. Rhode Island panegyrists maintain with an assurance of certainty that she stands unique in at least two counts: First, she was the first to formally and expressly "introduce it (religious liberty) into legislation" in 1636 (Elkton, 15), which gives her priority over Maryland, which never legislated anything but toleration. Secondly, they say that "no man has ever been molested on account of his religious principles" in Rhode Island (Knowles, 435); its legislature never gave "privileges to men of one set of religious opinions over those of another, and not a single act of religious intolerance has ever disgraced the State" (Elkton, 45); it "never admitted into statute or practice any spirit of repression" (Cobb, 482). Concerning the first point, we doubt the premises, and deny the conclusion as to priority, for reasons given already. The second contention we deny flatly and categorically, and will give reasons below. Besides these main points of interest there are others of minor importance here and there, so we will treat each separately in order of time, leaving the reader to form his conclusions as we travel.

BANISHMENT OF WILLIAMS FROM MASSACHUSETTS, 1635.

A side-light on the temper of the Rhode Island settlement is thrown by the question as to whether or not Williams' banishment from Salem was for religious causes. Williams himself asserted as much in a letter to Endicott, August, 1651 (Letters, p. 217). Arnold (41) and Elton (33) agree to the same effect. Cobb (187) takes the middle ground that Williams' theories concerning religious liberty were so fundamentally opposed to the theocratic principles of the Puritans that he was condemned practically as an enemy of social order, which view is the most correct,

in our opinion. This question, however, is referred to only on account of its indirect bearing upon the main issue. Mr. Deane (Winsor III., 336), a partisan of Williams, by the way, in denying that his banishment was due to religious animosity, gives, in proof, that Williams' "peculiar opinions relating to soul liberty were not fully developed until after he had taken up his residence in Rhode Island," which, if true, necessitates caution in estimating the amount of religious liberty intended by Williams to be the principle of his little colony. In a word, we must distinguish between the liberty advocated by Williams in 1635 and that afterward; and, if Mr. Cobb is right, it is a curious commentary upon Williams' own theories of religious liberty that he should have been condemned precisely according to them. Because he always advocated that a person's religious liberty could be controlled by the civil authority whensoever the latter considered that religious liberty a menace to the State. In his theories, Williams had omitted to state who had the right of distinguishing between what was and was not a menace to civil order; his theory was fundamentally weak from this point of view.

THE CROSS INCIDENT, CIRC. 1634-5.

Just before his banishment (1635) an incident occurred which has been made a charge against Williams' liberality. It seems that the national ensign had a cross in it. This was evidently too much for the Puritan hatred of papist idolatry. So Endicott forthwith had the cross cut out. Now Williams has been accused of advising this course. For this there is no direct proof. It is probable that Endicott's action was "a practical application . . . of the doctrine maintained by Mr. Williams on the unlawfulness of the ceremonies and symbols which had been used in the service of idolatry and Popery" (Knowles, 62;

also Elton, 26, Arnold, 29-30). Be this as it may, we cannot help wondering if Williams, for instance, in his new colony, would have considered "unlawful" the ceremonies of mass and the "symbols" in use generally amongst Catholics, had there been any.

WILLIAMS AND ECCLESIASTICAL TOLERANCE.

Another charge against him is his maintaining that "a man ought not to pray with" unregenerates, even though "wife, child," etc. His defenders (Elton, 30; Arnold, 35) either deny the charge, or ascribe Williams' attitude to his peculiar belief that since prayer is an act of religion it is absurd for an irreligious man to join in prayer; his particular aversion being to the practice in England of profligates and other such irreligious people joining in the services of the established church. This is a reasonable answer, but the incident, if true, shows that Williams could be as intolerant as anyone in religious questions not mixed up with civil affairs.

THE CIVIL COMPACT OF 1636; ITS MEANING.

The way is now cleared for a discussion of the first of the main questions proposed by this paper on Rhode Island—the amount of religious liberty guaranteed by the famous compact entered into by Williams and his handful of companions* when they laid the

*Note. This compact was drawn up, not by the very earliest first comers or masters of families, but by those who came a little later, and were probably not masters of families, but single men. It is not signed by Williams. The earliest settlers, *i. e.*, masters of families, had, previous to this, incorporated themselves into a township. There is no evidence that in this previous incorporation any act guaranteeing religious liberty was passed, notwithstanding that Williams, in 1661, asserted that he called the town Providence because he desired "it might become a shelter for persons distressed for conscience." More of this later on. Here we speak as if Williams did draw up the Compact.

foundation of Rhode Island in 1636. His admirers point to this compact as the first instance where absolute religious freedom was "introduced into legislation" (Elton, 15). By this compact he and his companions bound themselves "to be obedient to the orders of the majority only in civil things." In passing, the reader will note that, many centuries before, Constantine had "introduced it into legislation," as above described; also that this compact does not necessarily exclude the employment of spiritual penalties by ecclesiastical authority, such as excommunication, interdict, refusal to pray with unregenerates, etc.

But directly as to its meaning. Certainly on their face the words do definitely separate Church and State. We candidly admit, also, that Williams' intention was to grant an infinitely greater religious liberty than then existed anywhere in the world outside of the Colony of Maryland.

But we cannot avoid the suspicion that its authors did not intend the full religious liberty conveyed in their words. Our reasons are the following:

In discussing the much-debated law of 1663-4 disfranchising Roman Catholics, we will quote from Rhode Island's own legislators and defenders to the effect that in their opinion it was never intended by the founders of the colony that Catholics should possess the franchise, even though they granted the latter full religious liberty (so-called). Arnold, for instance (II., p. 495), distinctly admits that while "The Charter of Rhode Island and the action of the Colony uniformly secured to all people perfect religious freedom, it did not confer civil privileges as a part of that right upon anyone, and such only were entitled to these whom the freemen saw fit to admit." His view is perfectly correct, because in the grant of lands made by Williams to his early companions it is written that equal privileges should be given "to such others as the major part of us shall admit into the same fellowship

of vote with us." (Knowles, 112.) If Williams was so possessed at that time with his zeal for religious liberty, is it not strange that he should have inserted this clause, which his wide experience must have shown him to be the favorite weapon of intolerance? Was he so sanguine that his own views would prevail forever that he considered it unnecessary to guard his cherished principle from future intolerance which might make use of this clause as an instrument of oppression? At all events it was precisely this principle embodied in this clause which did permit the refusal of the franchise to Catholics, certainly at a later date, when it required a violent stretch of the imagination to see where that "*perfect* religious freedom came in."

If it be objected that this evidence is of a much later date than 1636 (almost a century, if we consider the disfranchising law of 1663 as a later interpolation), we offer the following contemporary evidence, the evidence, in fact, of one of the very founders of Rhode Island. It seems that about 1637 or 1638 a certain Mrs. Verrin was restrained by her husband from attending some religious meetings, for which act of intolerance he was punished; but here is the interesting part of the affair: Mr. Verrin had his supporters, a minority, however. These engaged in a warm debate with his opponents, which shows that right in the beginning of the Colony there were some who did not consider absolute religious liberty to be guaranteed by the "compact." In fact, one of the signers of that compact, one Benedict Arnold, in defending Verrin, said that that compact was not intended by its authors to "extend to the breach of any ordinance of God such as the subjection of wives to their husbands," etc. (Arnold, 104; Elton, 55-56.) We may not consider Benedict Arnold as liberal as Williams, but the fact remains that he (Arnold) did so interpret the "compact," and he presumably knew what it meant as well as Williams.

Besides this direct evidence, certain considerations of an indirect value make us wary about giving too much credibility to the words of the compact as they read. The principle has already been laid down that very few charters or like documents of the period, and, as well, historians' comments upon them, can be accepted to the full value of their words. Maryland's founder certainly intended otherwise than the words of his charter seem to mean. The same can be affirmed of other like documents emanating from Virginia, Massachusetts, Plymouth, North Carolina, etc. For instance, the Charter of New York, in 1674, contained the very broadest proclamation of religious liberty imaginable. Yet, under the same, Governor Andros assumed power immediately to regulate church affairs. (Cobb, 328-331.) The North Carolina Proprietaries promised entire freedom of religion to all emigrants by their "Declaration and Proclamation" of 1663, asserting that such liberty was guaranteed by their charter. Yet they regarded that very charter as establishing the Church of England, and in custom there, as everywhere, "No Papists need apply." (Cobb, 116-117.) Pretty much all the charters, in fact, guarantee religious freedom in some clause, though imposing restrictions upon it in others, a fact which shows how universal was the habit of extolling religious freedom, even by men who did not believe in or practise it, and which gives the reader ample reason for not entirely trusting such expressions until positive evidence is forthcoming to prove directly that the words meant what they said. The Colony at Plymouth—the famous Mayflower Pilgrims—drew up, for instance, a compact long before that of Williams or the Charter of Lord Baltimore, by which "we solemnly and mutually, in the presence of God, and one of another, covenant and combine ourselves into a civil body politic." (Cobb, 137.) Now, by the mere wording of this compact, and by the comments of as fair a writer as the

author here cited, the reader would conclude that Plymouth granted universal religious liberty. Yet the facts are to the opposite. I instance this case in particular, as it shows how guarded must be the reader, not only against the language of charters, but, as well, against the general assertions of historians; because it is only as if by chance, by the way, in a sort of off-hand fashion, that Mr. Cobb (p. 147) admits what completely puts out of consideration all claims of Plymouth to be considered a home of full religious freedom: "Of such spirit" (religious intolerance) "we look in vain through the early records of Plymouth for distinctly severe tokens, save in the exclusion of Romanists and Jesuits from the jurisdiction." In fact, Papists, in those days, were so universally excluded from the franchise that most writers seem to presume a particular mention of it unnecessary. They then blandly credit colonies and people with religious liberty, toleration, and freedom of the franchise, as if the exclusion of Catholics from the same did not affect the general truth of these statements. I do not say this is done consciously, but this strange ignoring of Catholic persecution occurs too often to be let pass unchallenged.

The reader has grasped, it is hoped, the bearing of the above argument. It is intended merely to justify a certain caution in accepting the wording of any charter or official document of those days as necessarily indicating the intention of their authors; in a word, as meaning what they say. Their wording cannot be taken as a complete test. We need other proof to show that their authors intended all that the words say. In the case of the Rhode Island Compact we have direct evidence to the contrary in the Verrin case, not to mention subsequent evidence in the shape of legal and legislative interpretation of the compact.

Perhaps Williams himself did intend complete liberty even for Catholics—mind, complete liberty, not mere toleration—but we say "not proved." Our sus-

picions of his liberality are great enough to make us regret that there were no Roman Catholics on the spot to put the compact to this severe test. Remember the remark of Deane concerning the "development" of Williams on the subject of religious freedom.

Another consideration should not be left out, namely, that there is no direct evidence that Williams drew up this Compact; his name is not among its signers. True, we have all along gone on the presumption that he did draw it up. We did so out of respect for the opinions of the leading historians, who either say or insinuate that it is due to him, and because we deem it not improbable that he at least approved it; but, strictly speaking, did he actually draw it up? There is no direct evidence.

Knowles (120) blandly asserts "it was undoubtedly drawn up by Roger Williams," apparently his reason being that "it bears the same impress of his character." Arnold (103) apparently bases his belief upon the existence of a similar agreement made between Williams and the still earlier settlers. He says the compact secured the rights of conscience "inviolate as their *predecessors* had done;" but when he refers to that supposed previous agreement he uses the very words of the subsequent civil compact, showing that he takes this as evidence of a former. The reader is requested to read the text of that compact to judge for himself if its reading presupposes the existence of a former compact. To our view, it does not.

The other evidence for Williams' participation in a former compact is the testimony of the Massachusetts Chronicler quoted by Arnold (104): "For whereas, at *their first coming thither,* Mr. Williams and the rest did make an order that no man be molested for conscience." But the Chronicler is evidently speaking in a general fashion, *i. e.,* referring to the colony in general; because the statement evidently refers to the compact known to us, since the Chronicler refers

to it in connection with the Verrin case, and Benedict Arnold's words, cited in that case, refer to the compact signed by ***him,*** which was none other than the compact known to us. Benedict Arnold could not have signed a previous compact, or order, because he was not among those who first came with Williams.

The last evidence for the existence of this previous compact, or for Williams' part in drawing up the one known to us, is pure presumption, drawn from an estimate of Williams' character. It amounts to this: "He would have done so; therefore he did." We can concede the premises without conceding the conclusion. There is fully as much evidence to prove that the compact was drawn up independently of Williams by the non-householders (chiefly second-comers); nor is it beyond the bounds of reason to imagine that *de facto* it was drawn up by them as a means of protection against any possible future religious oppression from the householders (first-comers), among whom was Williams.

At all events, it is curious that Rhode Island historians should be so quick to *presume* good of Williams, and so loth to admit anything but the strictest evidence in favor of Lord Baltimore and Maryland. The above is a typical instance of their methods. In passing, we cannot help from noticing how the same historians praise the Rhode Island settlement as a "pure democracy," yet admitting at the same time that it was a "close corporation," which gave or denied the franchise as it pleased.

THE SETTLEMENT AT AQUIDNECK, 1638.

In further proof that we are justified in this, our suspicious attitude toward statements of Rhode Island historians, the reader is referred to the second of the several settlements out of which grew the Colony of Rhode Island—the Aquidneck settlement of 1638. The settlers drew up a covenant in January of that year, in

which Christianity was made the basis of the body politic, thereby necessarily denying full religious liberty to all non-Christians. Yet we have been told (see above) by Mr. Elton that Rhode Island never gave "privileges to men of one set of religious opinions over those of another." Arnold is more cautious. He says these settlers increased more rapidly than Williams' people at Providence, and hence their influence upon the subsequent history of Rhode Island is to be taken into account (Arnold, 125-6), especially when we come to the discussion of the disputed disfranchising law of 1663-4.

CHARTERS OF 1644 AND 1663.

Charter of 1644. A discussion of this document affects the main purpose of this paper only in so far as it throws considerable light both upon the meaning of the wording of charters in general, and in particular upon that of Lord Baltimore. The peculiar thing about it is its complete silence on matters of conscience and worship, though granted by the commissioners of the Long Parliament, and obtained largely through the influence of Sir Henry Vane—authorities all of whom were friendly to Williams. Cobb (431) in explanation of this says: "Williams did not wish to raise the question with the English authorities, and also held that religious liberty was an indefeasible right which no charter could grant." This is probably true, at least so far as the first reason is concerned, the second being entirely gratuitous, and in flat contradiction to the grant of religious liberty by the later charter of 1663. Now, this being the case, our argument against a literal interpretation of charters, and such documents in general, is strongly confirmed. Because in this very charter there is not the slightest allusion to what Rhode Island advocates claim was the fundamental principle of the colony—religious liberty. With reason, then, we might point out to them their inconsistency in lit-

erally interpreting the Charter of Lord Baltimore. Their best argument for Rhode Island's priority in religious liberty is that, namely, that the "compact" of 1636 established the same, whereas Maryland's Charter of 1632 did not confer it, at least so far as its words go. Our answer has been that the Charter of 1632 should not be judged strictly by its wording, but by the intention of its framers; that, so judged, it did effect religious freedom. Either our answer is valid, or else Rhode Island defenders must concede that religious liberty was not permitted by their Charter of 1644.

Moreover, Williams' tact in not pressing for any recognition of religious liberty in face of English bigotry confirms our contention that Baltimore got about as liberal a charter as was possible under the circumstances. For if Roger Williams, friend of Cromwell and Sir Henry Vane, a dissenter, and in sympathy with the Parliamentary party in 1644, could not dare to insert even a toleration clause in his charter, how much less could Baltimore do so in 1632—Baltimore, a Papist, a protector of a religion hated blindly, and persecuted mercilessly, by all, Royalist and Parliamentarian, Episcopal and Dissenter, Cavalier and Round-head?

This is all the more reasonable when we remember Williams' good luck when he obtained from the capricious Charles II., in 1663, a charter guaranteeing full toleration to everybody. Williams himself was surprised at his success, in view of the opposition of the royal ministers. (Cobb, 435-436.) Had Baltimore applied under such favorable circumstances, will anyone doubt for an instant that he would have incorporated a similar toleration clause in his charter? And lastly—speaking of this Charter of 1663—if religious liberty had been guaranteed by the Compact of 1636, what necessity was there for a further guarantee by charter? Does not the anxiety of its petitioners argue

a certain shakiness that that compact did *not* fully protect religious liberty by law, that it needed strengthening? The reading of the act of the legislative assembly in 1644 (shortly after the issue of the Charter of 1644) has been alleged in proof that such an imputation is unwarranted. Mr. Cobb (431) says that act legislated "the broadest conceivable liberty of conscience and of worship." We do not see it in such a favorable light. Whatever may have been the intention of its authors, its words are no clearer on the subject than dozens of such acts of that period. "And now to the end that we may give each to other (notwithstanding our different consciences touching the truth as it is in Jesus) as good and hopeful assurance as we are able, touching each man's peaceable and quiet enjoyment of his lawful right and liberty . . . all men may walk as their consciences persuade them, every one in the name of his God. And let the lambs of the Most High walk in this colony without molestation, in the name of Jehovah their God, for ever and ever." To our way of thinking, this was an act which breathed Christianity in every word and inflection and spirit. Were it part of the United States Constitution at the present day we could argue from it that the United States Government was founded on Christian principles, and therefore that persecution of all non-Christians (Jews, atheists, pagans) would be perfectly legal, supposing, for the sake of argument, that there could be found authorities mean and cruel enough to take advantage of this loop-hole in the law. To-day many estimable reverend gentlemen and ladies, individually and collectively, are clamoring for the insertion of the name of Christ and God in the Constitution. Why? Because, say they, this is a Christian country, and that insertion would express the fact. Precisely. Its presence, then, in the Act of 1644 logically indicates that Rhode Island was legally and constitutionally a Christian government; hence not the home of *absolute* religious liberty.

DISPUTED LAW OF 1663-4 DISFRANCHISING CATHOLICS.

The next point in issue is the supposed law of 1663, disfranchising Roman Catholics and all non-Christians (for text see Winsor, p. 379). Rhode Island writers indignantly deny that this law was enacted at the time, but was an interpolation into the body of laws, certainly no earlier than about 1699. This paper neither denies nor affirms the passing of the law in 1663. It gives, however, its reasons for doubting, chiefly because these reasons will afford opportunity to bring up other points of interest bearing upon the main purpose of its writing. In passing, it is to be remembered that Williams was living in 1663 and was on the committee which revised the law of which this purports to be a part. Hence the importance of the question to Williams' character. (Arnold, 311.)

Leaving aside the documentary, direct arguments against the existence of the law in 1663 (Winsor, loc. cit.), which are reasonable as far as they go, the other indirect arguments against it are, in many cases, decidedly weak.

First, it is claimed, no Catholics were in Rhode Island at the time. Hence there was no necessity for the law; ergo, there was no law. We grant the premises. True, there were no Catholics. Peleg Sandford, Governor of Rhode Island, wrote in 1680 that whilst most of the people were Baptists and Quakers, and that all have liberty of conscience, "but as for Papists, we know of none amongst us;" lower down in his letter he notes in similar tone "but as for beggars and vagabonds, we have none amongst us." (Arnold, 490.) Cotton Mather, in 1695, says that in Rhode Island were everybody "but Roman Catholics and true Christians." (Arnold, II., 85.) The premises stand, therefore; but the conclusion that, therefore, the people of Rhode Island would not have been

so silly as to pass a law against Catholics who did not exist? By no means. We have too many instances in other colonies, where anti-Catholic legislation preceded the arrival of Catholics. Such was the case with New Jersey in 1699, which excluded Catholics from holding office, though there is no record that any Catholic had ever even proposed to settle there. (Cobb, 404-5.) Likewise, Georgia, in 1732. (Ib., 419.) And, of course, Plymouth and Massachusetts need no comment. Mr. Cobb, with his customary honesty, sees through the flimsiness of such a conclusion; but still his admiration for Rhode Island is too great to admit the possibility of any stain on her character. So he settles his doubts about the whole affair with the rather airy assertion that, anyhow, even if the law were genuine, it could not have worked any hardship, seeing there were no Catholics in the country (438). Quite true! But how about Rhode Island never introducing any intolerance in its legislation? And, by the way, is it not strange that after some 67 or so years of existence, there should have been no Catholics in Rhode Island? If Rhode Island were a land of liberty, as is claimed, it was then the only bit of land in the English dominions, whether in Europe or America, where a Catholic would have been left in peace. They were being persecuted even in their own colony of Maryland after 1692. And yet at that date there could not be found one in Rhode Island, a sanctuary to which we would imagine some, at least, would have fled. We suspect that Catholics were as sceptical of Rhode Island's professions of toleration as of those of other colonies. Possibly they interpreted its religious liberty somewhat like the unfeeling wit who remarked of the Puritans that "They passed unanimously two resolutions: first, the children of God have all rights to all the property of the world; secondly, we are the children of God." Finally, it is to be observed, anent this argument, from the absence of Catholics, that, ac-

cording to Cobb's reasoning, any legislation by charter or Act of Assembly disfranchising non-Christians in Maryland must likewise absolve Maryland from any charge of intolerance, provided there were no non-Christians in her jurisdiction at the time; and we do not know of any in her very earliest history.

Arnold (478-9) cites another argument against any presumption in favor of the law of 1663. In 1684 Jews appeared for the first time in Rhode Island. To a petition of theirs for recognition, the Assembly promised them "good protection here as any other resident foreigners." Ergo, he concludes, the law of 1663 disfranchising non-Christians could not have been recognized, hence did not exist. The conclusion is not plain. The law of 1663 did not enforce direct persecution of anyone, nor even deny toleration. It merely gave the franchise, freemanship to Christians. Hence, under it, a Jew could well receive protection from persecution, *i. e.,* toleration, without being admitted a "freeman," because he was a "foreigner," *i. e.,* not a freeman or citizen. If anything, this act of the Assembly proves plainly that Jews were denied citizenship, and thus confirms the law of 1663.

The other arguments concern the innate improbability of such a law having been enacted in a colony like Rhode Island, and with the connivance of a man like Roger Williams, both whose records in the past were utterly inconsistent with such a supposition; all the more so, as in that year, 1663, Rhode Island had obtained from Charles II. a charter distinctly guaranteeing religious liberty. As to the presumption from the records of Williams and his colony, that is, logically speaking, a *petitio principii.* It is precisely those records that are on trial. And as to the Charter of 1663, we know now what to think of charters in general, for other such documents guaranteed religious liberty without, however, shielding Papists from actual annoyance.

Here, too, it is not out of place to remember the remark of Arnold (125-6) concerning the less tolerant character of the Aquidneck settlement. If they had increased more rapidly than the settlers of Providence, is it unlikely that they constituted a majority of the Assembly, and could, therefore, have overridden the more tolerant minority represented by Williams' followers? It was precisely in this year (1663) that the definite union of all the settlements was effected, so that it is unjustifiable to judge the acts of the whole Assembly only by the preceding record of the Providence settlement, to argue from the tolerance of Providence to the tolerance of all. Logically, one could just as well argue from the limited tolerance of the Aquidneck settlement to the limited tolerance of all.

JEWS DENIED CITIZENSHIP IN 1762.

And now, in proof that such a presumption cannot be strictly urged against the existence of the doubtful law of 1663, we will bring forward the opinion of no less an ardent champion of Williams and Rhode Island than Mr. Charles Deane. His testimony, given in an unguarded moment, is a typical illustration of the inconsistency of many writers when treating this question—an inconsistency which is the direct occasion of our own minute, and doubtless tiresome, analysis of every particular point of the issue. His words concern an incident which took place in 1762. It seems that two Jews, in 1762 (doubtless unappreciative of the ineffable blessings of protection as *foreigners*) petitioned to be admitted to the rights of citizenship. Their petition was rejected by the Superior Court of Rhode Island, in the following words: "Further, by the charter granted to this Colony, it appears that the free and quiet ***enjoyment of the Christian religion and a desire of propagating the same, were the principal views with which this colony was settled,*** and by a law made and passed in 1663 no person who does not profess the Christian religion can be admitted free of this

Colony. This court therefore *unanimously* dismiss this petition as wholly *inconsistent with the first principles upon which the Colony was founded,*" etc. To get out of this very embarrassing difficulty, Mr. Charles Deane takes refuge in the following awkward and seemingly disingenuous distinction: "The law in question," he says, "does not relate to religious liberty" (guaranteed by the charter) "but to the franchise. Rhode Island has always *granted liberty to persons of every religious opinion,* but has placed a hedge about the franchise; and this clause does it." This may be a true distinction from a lawyer's standpoint, but the bald fact remains that in 1762, hardly eighty years after the death of Williams, the presumably most learned and fair body of Rhode Island gentlemen did unanimously assert that Rhode Island was settled principally for the sake of those professing Christianity, and for the propagation of the Gospel. In which case it is pretty difficult to see how "no man suffered for his opinions." Were Mr. Deane to be deprived of his vote on account of his religious opinions, would he not justly consider himself the victim of religious bigotry, even though he were allowed full *liberty of thought?* Would not he feel rather disgusted with a man who would, lawyer-like, tell him he had full religious liberty, on the technical ground that there was a distinction between religious liberty and the franchise? Mr. Deane evidently has more sense than his attitude would indicate, because in an unguarded moment he lets the cat completely out of the bag by the following admission: "Was it not natural for the *founders of Rhode Island* to keep the government in the hands of its *friends* while working out their experiment, rather than put it into the hands of the *enemies of religious liberty?* How many shiploads of *Roman Catholics* would it have taken to swamp the little colony in the days of its weakness" (Winsor, Vol. III., pp. 379-380)? So in one breath he tells us that Rhode Island always granted religious liberty to persons of every religious opinion, and in an-

other gives the lie to his own words by admitting that the very *founders* of Rhode Island (all italics are mine) looked upon Roman Catholics as enemies of the Colony, of its principles, and, therefore, took care to so restrict their rights of citizenship as to effectually prevent them from gaining control of the government; in a word, that Roman Catholics did, *de facto,* suffer for the sake of their faith, in so far as their faith deprived them of an essential political right in a free community.

Mr. Rider also, after devoting considerable labor towards disproving the authenticity of the law of 1663, agrees with Deane that even if passed, it did not go against the provisions of the charter, because "The charter gave liberty to all . . . it did not give the right to participate in the government to all . . . they might restrict the power of government to men of like opinion" (Rhode Island Hist. Tracts: Second Series, No. 1, p. 42).

If this be true, then the very simple question arises—why be so anxious to disprove the authenticity of the law of 1663 and the possible connection of Roger Williams with a disfranchising law? Because, on such reasoning, Williams *could* assist in the passing of such a law without being inconsistent with his principles and past practice of religious freedom. This anxiety betrays a lack of confidence in the logic of the distinction.

We leave the reader to his own conclusions, only adding this fact—namely, that Lord Baltimore showed himself so far superior to Roger Williams that of his own accord he put aside a Catholic in order to give Maryland a Protestant Governor and Council Protestant by half. The parallel is deadly. Evidently a few "shiploads of Roman Catholics" worked mighty well for the Puritans in Maryland. In passing, the reader will also note the fact that the Superior Court, presumably the most learned body of law experts, believed in the existence of that law of 1663.

CATHOLICS UNDENIABLY DISFRANCHISED IN 1728-9.

But now—granting for argument's sake that the law of 1663 was a later interpolation—the fact remains that it was nevertheless "five times formally re-enacted when the several digests . . . were submitted by their revising committees and passed the Assembly; and it remained a law until 1783" (Winsor, 379). The digests appeared in 1719, 1730, 1745, 1752, 1767. Rider says it became a law only at about 1728-9.

Two more incidents, and then we have exhausted all of the charges commonly urged against Rhode Island's claim to the practice and legislation of absolute religious liberty.

SUNDAY-OBSERVANCE LAW OF 1673.

In 1673 a law was enacted to restrain "gaming and tippling" on Sunday (Arnold, 367). Whatever may be our aversion to both gaming and tippling, still any law making a misdemeanor punishable because committed on *Sunday, ipso facto,* makes Christianity a law of the State, introduces a union of Church and State to the prejudice of Jews, atheists, pagans, etc., who for their own reasons may wish to treat Sunday with no more reverence than any other day.

ANTI-CATHOLIC AGITATION, 1696.

Lastly, in 1696, as the result of the anti-Papist agitation in England, consequent upon the alleged plot against the life of King William, letters were sent to all the colonies concerning the popish conspirators. These letters were published with great parade and joy in Rhode Island, and promises were made to apprehend the conspirators should they come to the colony. The reader will hardly accuse us of sympathy for conspirators whether of the Catholic Guy Fawkes style or

of the Felton Puritan type. But we cannot help adverting to the unction with which the prospect of nabbing a Catholic conspirator was welcomed in free Rhode Island. It is, of course, only a straw showing the direction of the river's current.

SUMMARY.

Such then are all the pros and cons known to the present writer on the subject of Rhode Island and religious liberty. It is, of course, undoubtedly true that both Williams and his successors in the government of the colony were men considerably beyond their times, as regards the belief in and practice of toleration. But our genuine admiration for their broad-mindedness should not lead us into the fulsome and unjustifiable eulogies of their historians. With all the above facts before him, it is almost inconceivable that an able and presumably conscientious historian like Elton could blandly make the astounding statement that Rhode Island never gave "privileges to men of one set of religious opinions over those of another." And in view of this and other similar instances, we trust the candid reader will pardon us for being somewhat suspicious of professions of religious liberty whether coming from modern historians or colonial legislators.

Lastly, with the evidence before us from Williams' own letters, it is surely not unjust to place his character on a lower level than that of George Calvert, first Lord Baltimore, who, if we can trust his biographer, never descended to that abusive language which flowed so readily from the pen of Williams when writing of Papists. Baltimore, at least after his conversion in 1624, "remained moderate, courteous, charitable. . . . In all his correspondence there runs a broad vein of kindness, sympathy, energy and courage" (Fund-Pub., 15-22, p. 168-9).

General Conclusion.

After this rather minute examination of the evidence, the present writer reiterates his general conclusion expressed in the beginning—to wit: that a comparison between Maryland and Rhode Island as to their priority in the establishment of religious liberty is somewhat idle. At least, it is not likely to result in changing the now generally settled convictions of the parties to the dispute. And for a reason which must be evident to the reader—namely, that the whole question revolves around an interpretation of written documents rather than the finding out of facts. We have all the facts. We disagree in their interpretation. Both parties by approaching the subject with preconceived opinions (as mostly all do, and will continue to do), can honestly interpret these facts in diametrically opposite fashions.

The obvious question then suggests itself: Why has this paper been written? I answer, that it were well for it to have been written, if it does nothing else than present the evidence, clearly so, that most readers will see the futility of a dispute which never can end so long as interpretations of that evidence will (as they must) conflict. It has served a still higher purpose if it convince a few that, after all, it is better to take a broader view of the whole affair. To overlook the petty question of a few years priority and regard both Lord Baltimore and Roger Williams as practically simultaneous forces in the movement towards religious freedom; forgiving the faults and errors of both, in view of their nobler motives; and seeking, as far as in us lies, to imitate the good they did. Such a view is nobler in itself, and infinitely more productive of sound sense and mutual good feeling.

DATES OF PRINCIPAL EVENTS REFERRED TO IN MARYLAND HISTORY.

1623.—Avalon (Newfoundland) Charter granted to Lord Baltimore.

1624.—Conversion to Catholicity of George Calvert, first Lord Baltimore.

1627.—Unsuccessful colonization of Avalon.

1632.—Maryland Charter issued to Cecilius Calvert, second Lord Baltimore.

1633.—(Nov. 13). Letter of instruction from Cecilius Calvert to his brother, Leonard Calvert, as to the conduct to be observed among the colonists about to depart: requires him and other officers to "be very careful to preserve unity and peace amongst all the passengers on shipboard and that they suffer no scandal or offence to be given to any of the Protestant . . . and for that end cause all acts of Roman Catholique Religion to be done as privately as may be, and that they instruct all the Roman Catholiques to be silent upon all occasions of discourse concerning matters of religion, and that the said Governor and Commissioners treat the Protestants with as much mildness and favor as justice will permit. And this is to be observed at land as well as at sea."

1634.—(March 25). Landing of the colonists in Maryland.

1648.—Removal of Catholic and appointment of Protestant Governor Stone by Lord Baltimore.

Oaths required by Lord Baltimore of the Governor and Council to the effect that they swore not to in any way trouble or molest any persons in the colony professing to believe in Jesus Christ "and in particular no Roman Catholic for, or in respect of, his or her religion."

1649.—(April 21). Toleration Act or "Act concerning Religion" passed by the Assembly which was Catholic in majority; chief clause reads: "Whereas, the enforcing of the conscience in matters of religion hath frequently fallen out to be of dangerous consequence in those commonwealths where it hath been practised, and for the more quiet and peaceable government of this province, and the better to preserve mutual love and unity amongst the inhabitants here," it is enacted that no person "professing to believe in Jesus Christ shall, from henceforth be any ways troubled, molested, or discountenanced for, or in respect of, his or her religion, nor in the free exercise thereof within this province . . . nor any way compelled to the beleefe or exercise of any other religion, against his or her consent." Catho-

lics concerned in passing this law were Cecilius Calvert, who drafted it; the signers, Thomas Green, Robert Clarke, Cuthbert Fenwick, William Bretton, George Manners, John Maunsell, Thomas Thornborough, Walter Peake.

Besides the above, all persons in the colony were required to take an oath reserving "Libertie of Conscience in point of Religion to himself and all other persons."

1652.—Repeal of the Toleration Act by a Protestant Assembly; their action, however, nullified by order of Oliver Cromwell.

1689.—Protestant Revolution resulting in

1692.—Revocation of the Charter, establishment of the Church of England as the State Church in Maryland, and proscription of Catholics by fines, imprisonment, etc.

RHODE ISLAND HISTORY.

1635.—Roger Williams banished from Massachusetts.

1636.—Settlement of Providence—

Compact entered into by the settlers, *i. e.*, chiefly second-comers: "We, the undersigned, desirous to inhabit in the town of Providence, do promise to subject ourselves in active and passive obedience, to all such orders and agreements as shall be made for public good of the body, in an orderly way by the major consent of the present inhabitants, masters of families, incorporated together in a town fellowship, and others whom they shall admit into the same, *only in civil things.*"

1638-9.—Aquidneck settlement (Portsmouth and Newport).

1644.—First charter granted by English Parliament.

1663.—(Nov. 24). Second Charter granted by Charles II.; unification of all the settlements now making the State of Rhode Island.

1663-4.—Date of disputed law disfranchising non-Christians and Roman Catholics: "All men *professing Christianity* and of competent estates and civil conversation, who acknowledge and are obedient to the civil magistrate, though of different judgements in religious affairs (*Roman Catholics only excepted*), shall be admitted freemen, and shall have liberty to choose and be chosen officers in the colony, both military and civil." Acknowledged by all writers to have become a law at least as early as 1729.

1683.—Death of Roger Williams (born 1606).

1762.—Rejection of Jews from citizenship.

ENGLISH HISTORY.

1603-1625.—James I., King of England.

1625-1642.—Charles I.

1642-1649.—War between Charles I. and the Puritan Parliament.

1649-1653.—Commonwealth, Religious Wars in Ireland. Massacres at Drogheda and Wexford by Oliver Cromwell (1599-1658). Milton (1608-1674) and Sir Henry Vane (1612-1662) prominent Puritan leaders in politics of the day.

1653-1659.—Protectorate. England under Oliver Cromwell up to 1658; under his son, Richard, up to 1659.

1660-1688.—Restoration of the monarchy—Charles II. and James II.

1678.—So-called Popish plot. Increased persecution of Catholics.

1689.—Revolution. Accession of William and Mary. Bill of Rights, excluding Catholics from the throne.

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A Note on Protestant Intolerance.

After the foregoing sketch was completed, it was suggested that a general note on Protestant intolerance be added. The present writer was personally averse to such a task, because it necessitated entering into an arena of dispute where respectable historians are loth to be seen. At the same time he fully realizes the justice of the request. Strange as it may seem, there is even at this late hour a conviction pretty generally prevalent among Protestants that religious persecution was practised solely by Catholics, or, at least, that the rise of religious toleration was the result of the Protestant Reformation, notwithstanding the occasional manifestations of bigotry on the part of Protestant governments. It is useless to deny the prevalence of this strange error. The experience of the I. C. T. S. proves it unmistakably.

Now, it is difficult to keep one's patience in face of such persistent ignorance, even supposing the ignorance to be honest. But is it honest? On the part of the uneducated, it probably is. On the part of the educated? Probably not, unless we can presume the existence of intellectual as well as physical blindness—a blindness produced by an habitual refusal to see aught but what one wishes to see. This is very likely the case with the makers of our *popular* histories. They tell minutely all the horrors, real and imaginary, of the Spanish Inquisition, the cruelties of the Duke of Alva, Mary Tudor, Philip II., etc. But they are either completely silent, or palliate the equally bloody atrocities of Elizabeth, Cromwell—in fact, of every English Protestant ruler of the same period. The persecution of the Vaudois is heralded by Milton; the massacres at